

Appln. No. 10/720,635  
Docket No. GP-302389-R&D-KM / GM2-0080

## REMARKS / ARGUMENTS

### Status of Claims

Claims 1-25 are pending in the application. Claims 1-16, 19, and 23 stand rejected. Claims 20-22, 24 and 25 are objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 10-13 would be allowable if rewritten to overcome the rejections under 35 U.S.C. §112, 2nd paragraph, and to include all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Claims 17 and 18 have been withdrawn as directed to a non-elected species. Applicant has amended Claims 1, 10, and 19, and added new Claim 26, leaving Claims 1-16 and 19-26 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §112, second paragraph, 35 U.S.C. §102(b), and 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

### Election/Restrictions

The Examiner maintains the finality of the restriction requirement, remarking that the generic claims have not been found allowable.

In the event that Claim 1, considered by Applicant to be generic, is found allowable, Applicant respectfully requests removal of the single-species election, and reconsideration of Claims 17 and 18, which depend from Claim 1.

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### **Rejections Under 35 U.S.C. §112, Second Paragraph**

Claims 10-13 stand rejected under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections.

The Examiner comments that the omitted structural cooperative relationship is the relationship between a locking surface and a retaining surface to the step apparatus.

Applicant traverses this rejection for the following reasons.

Applicant has amended Claim 10 to now recite, inter alia, "*a pivot having a locking surface and a retaining surface, wherein the step rotates about the pivot...*"

No new matter has been added, as antecedent support may be found in the specification as originally filed, such as at Paragraphs [0012] and [0017].

Dependent claims inherit all of the limitations of the respective parent claims.

Applicant submits that the above claim amendment now describes the structural cooperative relationship between the locking surface and the retaining surface, and step apparatus.

In view of the foregoing, Applicant submits that the claimed subject matter is described in such a manner that reasonably conveys to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection, which Applicant considers to be traversed.

### **Rejections Under 35 U.S.C. §102(b)**

Examiner's Paragraph 5: Claims 1-5 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by Bucklen (U.S. Patent No. 3,762,742, hereinafter Bucklen).

Examiner's Paragraph 6: Claims 1, 2, 5, 15, and 16 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hawkins (U.S. Patent No. 5,358,268, hereinafter Hawkins).

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Examiner's Paragraph 7: Claims 1, 2, 5, 9, 14-16, 19 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by Green (U.S. Patent No. 3,751,068, hereinafter Green).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the \*\*\* claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Regarding Examiner's Paragraph 5

In alleging anticipation of Claims 1-5 and 23, the Examiner remarks: "Bucklen teaches a door (15) and a step (12). The step is electrically positioned in response to the door opening." (Paper 20060315, page 3).

With Regard to Independent Claim 1

Applicant has amended Claim 1 to now recite, inter alia,

"...a step disposed at and in operable mechanical communication with the door, the step having a retracted position in response to the door being closed and capable of having a fully deployed position in response to the door being only partially open..."

Here, Applicant claims a mechanical arrangement between the door and the step, not a motor-driven arrangement, and a step that is capable of being fully deployed when the door is only partially open via the mechanical arrangement.

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In comparing Bucklen with the claimed invention as amended, Applicant submits that Bucklen is absent disclosure of “a step disposed at and in operable mechanical communication with the door, the step... capable of having a fully deployed position in response to the door being only partially open”, as claimed.

At column 1, lines 40-46, and at column 3, lines 44-50, Bucklen discloses an electric motor to operate the step assembly, and limit switches to provide electrical communication between the door and the step, which Applicant submits is substantially different from the claimed step being in operable mechanical communication with the door.

Additionally, Applicant submits that Bucklen is absent disclosure of the claimed “...wherein *the first ground clearance is defined by the vehicle independent of the step apparatus*”, as claimed for in Claim 1.

In comparing Bucklen with the claimed invention, Applicant finds Bucklen to disclose a step that swings from position 11a to position 11 (Figure 1), and finds Bucklen to be absent any disclosure of the aforementioned claim element.

In view of the foregoing, Applicant submits that Bucklen is absent disclosure of each and every element of the claimed invention arranged as claimed, and therefore cannot be anticipatory.

Dependent claims inherit all of the limitations of the parent claim.

With Regard to Claims 3-4 More Specifically

Claims 3 and 4 recited, inter alia,

“...wherein the partially open position results from a lateral door movement of equal to or less than about 28 inches.” (Claim 3); and

“...wherein the partially open position results from a lateral door movement of equal to or less than about 15 inches.” (Claim 4).

In alleging anticipation, the Examiner fails to show with specificity where Bucklen discloses the claimed features.

Absent anticipatory disclosure of each and every element of the claimed invention arranged as claimed, Bucklen cannot be anticipatory.

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With Regard to Independent Claim 23

Claim 23 recites, inter alia,

“...via the opening action of the door, *rotating the step vertically from a retracted substantially vertical position to a deployed substantially horizontal position*, the rotating being in opposition to a bias force biasing the step in the retracted position...”

Applicant finds Bucklen to disclose rotation from a retracted first *substantially horizontal position* (reference numeral 11a) to a deployed second *substantially horizontal position* (reference numeral 11).

In comparing Bucklen with the claimed invention, Applicant respectfully submits that Bucklen is absent disclosure of the claimed “...via the opening action of the door, *rotating the step vertically from a retracted substantially vertical position to a deployed substantially horizontal position*, the rotating being in opposition to a bias force biasing the step in the retracted position..”

Absent anticipatory disclosure in Bucklen of each and every element of the claimed invention arranged as in the claim, Bucklen cannot be anticipatory.

Dependent claims inherit all of the limitations of the parent claim.

Regarding Examiner's Paragraph 6

With Regard to Claim 1

In alleging anticipation of Claim 1 by Hawkins, the Examiner remarks, inter alia, “... the first ground clearance is defined by the vehicle independent of the step apparatus...” (Paper 20060315, page 4).

Applicant respectfully submits that the above remarks appear to be merely a broad, conclusory restatement of the claim language, without specific recitation of where each and every element of the claimed invention may be found within Hawkins.

Specifically, Applicant is unable to find any disclosure within Hawkins of the claimed “wherein *the first ground clearance is defined by the vehicle independent of the step apparatus*”, which is specifically claimed for in Independent Claim 1 of the instant invention.

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In addition to the foregoing, Applicant has amended Claim 1 as discussed above, and submits that Hawkins, like Bucklen, fails to anticipate the claimed invention for at least the same reasons as set forth above regarding Bucklen.

At column 4, lines 23-50, Hawkins discloses a motor driven step where the electric motors are driven briefly to cause the side step to open a short distance, and as the front door is continued to swing upward, to electric motors are driven more to cause the step to be fully open.

As such, Applicant finds Hawkins to be absent “the step... capable of having a fully deployed position in response to the door being only partially open”.

Absent anticipatory disclosure in Hawkins of each and every element of the claimed invention arranged as in the claim, Hawkins cannot be anticipatory.

With Regard to Claim 16 More Specifically

In alleging anticipation of Claim 16, the Examiner broadly references Figure 2 for support in anticipating the claimed invention, and remarks that “based on the step being positioned at half the height of the wheels”, Hawkins is anticipatory. Paper 20060315, page 4.

In comparing Figure 2, and the associated text starting in column 2, line 18, to the claimed invention, Applicant finds no disclosure of “wherein *the entry elevation* in the presence of the step is *about 50 percent of the entry elevation* in the absence of the step.”

Applicant respectfully submits that the Examiner’s general reference to “the step being positioned at half the height of the wheels” is wholly insufficient for establishing a prima facie case of anticipation, as nowhere does Hawkins disclose any relationship between the height of the wheels and the entry elevation.

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Regarding Examiner's Paragraph 7

With Regard to Claim 1

In alleging anticipation by Green, the Examiner remarks, inter alia "...the first ground clearance is defined by the vehicle independent of the step apparatus..." (Paper 20060315, page 5). However, the Examiner does not state with specificity where in Green such disclosure may be found.

Applicant is unable to find, and respectfully submits that Green is lacking, disclosure of the claimed "wherein *the first ground clearance is defined by the vehicle independent of the step apparatus*" as claimed for in Claim 1.

In addition to the foregoing, Applicant has amended Claim 1 as discussed above, and submits that Green, like Bucklen, fails to anticipate the claimed invention for at least the same reasons as set forth above regarding Bucklen.

At column 2, lines 33-42, Green discloses a vehicle door cable 50 that acts on telescoping support arm 18 to extend and pivot the step 24 downward and outward against the tension of spring 54.

As such, Applicant finds Green to disclose a step that is incapable of being fully deployed if the door is only partially open and the door cable not fully actuated. Thus, Applicant finds Green to be absent "the step... capable of having a fully deployed position in response to the door being only partially open".

Absent anticipatory disclosure in Green of each and every element of the claimed invention arranged as in the claim, Green cannot be anticipatory.

Dependent claims inherit all of the limitations of the parent claim.

With Regard to Claim 16

In alleging anticipation of Claim 16, the Examiner does not state with specificity where Green discloses each and every element of the claimed invention arranged as claimed.

Absent anticipatory disclosure in Green of each and every element of the claimed invention arranged as in the claim, Green cannot be anticipatory.

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With Regard to Claim 19 Specifically

Applicant has amended Claim 19, to now recite, inter alia:

“...a step having a pivot, the pivot disposed proximate the door frame, the step having a retracted position in response to the door being closed and a fully deployed position in response to the door being only partially open...”

In comparing Green with the claimed invention, Applicant submits that Green is absent disclosure of “the step having... a fully deployed position in response to the door being only partially open”, as claimed.

In addition to the foregoing, the Examiner alleges “...the door includes a drive surface for driving the step to the deployed position in response to the door being opened (note the anchor pin 52 is on that surface)...” (Paper 20060315, page 5)

In respectful disagreement with the Examiner, Applicant finds Green to disclose “*Flexible link means interconnects the inner end of the outer arm segment 22 and the lower margin of the door 12.* In the illustrated form of the invention the link means comprises an aircraft control cable or other flexible member 50. One end of the cable is connected to eye 30 on support arm segment 22. The other of its ends is connected to an anchor pin 52 carried by the door.” (emphasis added) (Green, col 2, lines 18-25).

Applicant submits that in addition to the deficiencies to anticipate the current invention noted above, Green is lacking disclosure of the claimed “wherein the step rotates... *the door having a drive surface for engaging the step to drive the step to the deployed position* against the bias force”, as specifically claimed for in Claim 19.

Accordingly, Applicant submits that Green does not disclose each and every claim element arranged as in the claim, and absent anticipatory disclosure in Green of each and every element of the claimed invention arranged as in the claim, Green cannot be anticipatory.

With Regard to Claim 23 Specifically

Claim 23 recites, inter alia:

“...via the opening action of the door, *rotating the step vertically from a retracted substantially vertical position to a deployed substantially horizontal position,*



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the rotating being in opposition to a bias force biasing the step in the retracted position...”

In comparing Green with the claimed invention, Applicant finds Green to disclose a step 24 having a first *substantially horizontal* position in the retracted state, and a second *substantially horizontal* position in the extended state, as shown in Figure 3.

Accordingly, Applicant submits that Green does not disclose each and every claim element arranged as in the claim, and absent anticipatory disclosure in Green of each and every element of the claimed invention arranged as in the claim, Green cannot be anticipatory.

In view of the foregoing remarks, Applicant submits that the References do not individually disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner’s rejections under 35 U.S.C. §102(b) have been traversed, and requests that the Examiner reconsider and withdraw these rejections.

#### **Rejections Under 35 U.S.C. §103(a)**

Claims 6-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hawkins.

Claims 3, 4, and 6-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Green.

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

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Dependent claims inherit all of the limitations of the respective parent claim and any intervening claim.

Regarding Examiner's Paragraph 8 and Dependent Claims 6-8

The Examiner acknowledges that Hawkins is deficient in anticipating the claimed invention, specifically the teaching of a clearance of equal to or greater than 6, 9, or 15 inches, and suggests that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a clearance of equal to or greater than 6, 9, or 15 inches.

Claims 6-8 are dependent claims. In view of Applicant's remarks set forth above regarding the allowability of the parent claim over Hawkins, Applicant submits that Claims 6-8 are allowable at least for the reason that they depend from an allowable claim.

Accordingly, Applicant submits that Claims 6-8 are now allowable, and respectfully requests notice of allowance thereof.

Regarding Examiner's Paragraph 9 and Dependent Claims 3, 4, and 6-8

The Examiner acknowledges that Green is deficient in anticipating the claimed invention, specifically the teaching of a lateral door movement being equal to or less than 15 and 28 inches, and a clearance of equal to or greater than 6, 9, or 15 inches, and suggests that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a clearance of equal to or greater than 6, 9, or 15 inches.

Claims 3, 4, and 6-8 are dependent claims. In view of Applicant's remarks set forth above regarding the allowability of the parent claim over Green, Applicant submits that Claims 3, 4, and 6-8 are allowable at least for the reason that they depend from an allowable claim. Accordingly, Applicant submits that Claims 3, 4, and 6-8 are now allowable, and respectfully requests notice of allowance thereof.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one

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skilled in the art to do what Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §112, second paragraph, 35 U.S.C. §102(b), and 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

#### Regarding New Claim 26

Applicant has added new Claim 26, which depends from Claim 1, to now claim disclosed but previously unclaimed subject matter. No new matter has been added as antecedent support may be found in the application as originally filed, such as at Paragraph [0012], and Figures 1 and 2, for example.

In view of the amendment and remarks set forth above regarding the allowability of Claim 1, Applicant submits that new Claim 26 is directed to allowable subject matter and respectfully requests entry and notice of allowance thereof.

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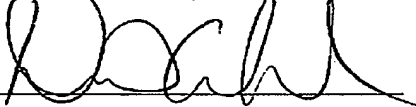
The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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